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Attorney for U.S. BANK, N.A. IT'S SUCCESSORS AND/OR ASSIGNS

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
WACO DIVISION

IN RE:	§ CASE NO. 10-60195-RBK-7
	§
DANIEL LEWIS CARPENTER,	§
Debtor	§ CHAPTER 7
	§
U.S. BANK, N.A. IT'S	§
SUCCESSORS AND/OR ASSIGNS,	§
Movant	§ HEARING DATE: _____
	§
v.	§ TIME: _____
	§
DANIEL LEWIS CARPENTER;	§
JAMES STUDENSKY, Trustee	§
Respondents	§ JUDGE RONALD B. KING

**MOTION OF U.S. BANK, N.A. IT'S SUCCESSORS AND/OR ASSIGNS  
FOR RELIEF FROM STAY OF ACTION AGAINST DEBTOR(S) REGARDING  
PROPERTY LOCATED AT 2810 KIM DR, KILLEEN, TX 76543 PURSUANT TO 11  
U.S.C. § 362(a) AND WAIVER OF THIRTY DAY REQUIREMENT PURSUANT TO  
§ 362(e)**

**NOTICE**

**THIS PLEADING REQUESTS RELIEF THAT MAY BE ADVERSE TO YOUR INTERESTS.**

**IF NO TIMELY RESPONSE IS FILED WITHIN FOURTEEN (14) DAYS FROM THE DATE OF SERVICE, THE RELIEF REQUESTED HEREIN MAY BE GRANTED WITHOUT A HEARING BEING HELD.**

**A TIMELY FILED RESPONSE IS NECESSARY FOR A HEARING TO BE HELD.**

**WAIVER OF THIRTY DAY REQUIREMENT**

**MOVANT DESIRES TO WAIVE THE REQUIREMENT OF A HEARING WITHIN THIRTY (30) DAYS UNDER §362(e) AND REQUESTS A HEARING AT THE NEXT AVAILABLE DATE.**

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW Movant, U.S. BANK, N.A. IT'S SUCCESSORS AND/OR ASSIGNS, by and through the undersigned attorney, and moves the Court as follows:

1. This Motion is brought pursuant to 11 U.S.C. §362(d) in accordance with Rule 4001 of the Bankruptcy Rules.
2. On or about February 18, 2010, Debtor (hereinafter "Debtor") filed a petition for an order of relief under Chapter 7 of the Bankruptcy Code, 11 U.S.C.
3. At the time of filing the Chapter 7 petition, Movant held a Note executed on June 22, 2007, in the original amount of EIGHTY-SEVEN THOUSAND EIGHT HUNDRED FORTY-SEVEN DOLLARS AND ZERO CENTS (\$87,847.00) with interest thereon at the rate of 6.875% per annum.
4. The indebtedness is secured by a Deed of Trust dated June 22, 2007 and

executed by DANIEL LEWIS CARPENTER and CAROL L. CARPENTER on real estate  
with all improvements known as:

LOT TWENTY-FOUR (24), BLOCK FOUR (4), CEDAR HILL ADDITION  
PHASE TWO, KILLEEN, BELL COUNTY, TEXAS, AS PER PLAT OF  
RECORD IN CABINET C, SLIDE 26-D, PLAT RECORDS OF BELL  
COUNTY, TEXAS.

**COMMONLY KNOWN AS 2810 KIM DR, KILLEEN, TX 76543.**

A true and correct copy of the Deed of Trust is attached hereto as Exhibit "A".

5. Prior to the filing of the petition, Debtor was indebted to Movant according to the terms and conditions of the Note and Deed of Trust. Debtor has failed to maintain current the payments due under the note and is presently in arrears for 11 payments through and including the March 01, 2010 payment.

6. The outstanding indebtedness to Movant is \$86,205.11 principal plus accrued interest, late charges, attorneys fees and costs as provided in the Note and Deed of Trust.

7. Further cause may exist to terminate the automatic stay if the Debtor fails to provide proof of adequate insurance and payment of applicable taxes by Debtor as required by the Note and Deed of Trust. Movant hereby demands proof of insurance and payment of applicable taxes by Debtor. Movant reserves the right to further assert that Debtor has failed to pay taxes or insurance based on the response of Debtor.

8. In accordance with the terms of the Note and Deed of Trust, Movant would allege that it is entitled to reasonable post-petition attorneys fees, including, but not limited to, fees, if any, for the preparation and filing of a proof of claim and fees and costs for the filing of this Motion for Relief from Stay.

9. Debtor has failed to provide adequate protection to Movant which constitutes cause to terminate the automatic stay of 11 U.S.C. §362(a).

10. By reason of the foregoing, Movant requests the Court to terminate the stay so Movant may proceed to foreclose in accordance with its Note and Deed of Trust.

11. Movant reserves the right to assert an 11 U.S.C. § 362(d)(2) Cause of Action, if appropriate, at the hearing on Movant's Motion for Relief.

12. The provision of Rule 4001 (a) (3) should be waived and Movant be permitted to immediately enforce and implement any order granting relief from the automatic stay.

WHEREFORE, Movant prays that this Court enter an order, after notice and hearing, terminating the automatic stay as to Movant; alternatively, Movant be made whole by having all payments brought current. Movant further prays that the Court waive the provision of Rule 4001 (a) (3) and that U.S. BANK, N.A. IT'S SUCCESSORS AND/OR ASSIGNS be permitted to immediately enforce and implement any order granting relief from the automatic stay; that Movant be awarded its reasonable post-petition attorneys fees and expenses for this Motion; and, that Movant be granted such other and further relief as is just.

Respectfully submitted,

BARRETT DAFFIN FRAPPIER  
TURNER & ENGEL, LLP

BY: /s/ CHERI ABBAGE  
CHERI ABBAGE  
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ATTORNEY FOR MOVANT

**CERTIFICATE OF SERVICE**

I hereby certify that on March 22, 2010, a true and correct copy of the foregoing Motion for Relief from Stay was served via electronic means as listed on the Court's ECF noticing system or by regular first class mail to the parties on the attached list.

Respectfully submitted,

BARRETT DAFFIN FRAPPIER  
TURNER & ENGEL, LLP

/s/ CHERI ABBAGE 3/22/2010

CHERI ABBAGE  
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ATTORNEY FOR MOVANT

**DEBTORS:**

DANIEL LEWIS CARPENTER  
2810 KIM DR  
KILLEEN, TX 76543

DANIEL LEWIS CARPENTER  
2810 KIM DRIVE  
KILLEEN, TX 76543

**TRUSTEE:**

JAMES STUDENSKY  
3912 W. WACO DRIVE  
WACO, TX 76710

**US TRUSTEE:**

515 RUSK, STE 3516  
HOUSTON, TX 77002

**DEBTOR'S ATTORNEY:**

GLYNN BEATY  
3925-A S JACK KULTGEN FWY.  
WACO, TX 76706

**MORTGAGORS:**

CAROL L. CARPENTER  
2810 KIM DR  
KILLEEN, TX 76543

**PARTIES IN INTEREST:**

None

**PARTIES REQUESTING NOTICE:**

ONEWEST BANK, FSB  
HUGHES, WATTERS & ASKANASE, L.L.P.  
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